



## LOUISIANA PUBLIC DEFENDER BOARD MEMO

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To: The Board  
From: Jean M. Faria  
Re: Report of the State Public Defender  
Date: November 30, 2009

### **BUDGET**

The traditional budget request for FY-11 was turned in by November 5, 2009. The budget request stands at \$40.5 million. We received a few questions from the Budget Analyst at the Office of Planning and Budget to clarify the Board's request. Despite the fact that we have not heard about the outcomes of either budget request, our Appeal Hearing has been scheduled for December 14, 2009 at 11:30-12:00, presumably because we did not receive our requested amount of \$40.5 million funding.

### **Grants**

The U.S. Department of Justice grant for the \$250,000 for the Capital Case Litigation Initiative training project has been approved. However, we have been advised by D.O.J. to delay working on this project until D.O.J. has completed its review process.

The federal stimulus grant administered through the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice (LCLE) in the amount of \$49,000 has been billed and we are to receive our first reimbursement for invoices covering the period from July 1, 2009 through September 30, 2009. We are waiting to receive the signed contracts for the first and second year contracts and funds for the Juvenile Indigent Defense Action Network (JIDAN).

### **Audits**

Budget Officer Buchanan, Compliance Officer Di Giulio, Training Director Kilborn and the State Public Defender conducted a site visit to the Capital Appeals Project. The Budget Officer reviewed the corporation's books and accounts and evaluated existing internal controls. Ms. Buchanan evaluated the separation of duties and made suggestions on how to improve the same, including asset safeguards and the purchase of fiduciary bonds for all who handle financial matters.

Staff is working with the Budget Committee to suggest changes to contracts to be issued in the future. Staff began drafting contracts last January to have them to the Board for the March Board meeting. We again will work towards this target date to achieve seamless continuity of funding. All of this assumes that the Governor signs Act 1 and that the Office of Finance and Support Services loads the budget.

We will begin analyzing overhead costs of those District Defenders who claim a percentage of their personal offices are being used for public defender business. A resolution has been prepared by General Counsel to begin gathering information for this purpose for all affected districts. Upon completion, the Board will be presented with our findings for further discussion and direction.

At its November 30, 2009 meeting, the Budget Committee discussed emergency funding for the 34<sup>th</sup> Judicial District Defender Office. The Committee voted to approve disbursement of \$22,038, the August distribution amount and an additional \$10,462 to avoid zero reserves.

## **CAPITAL GUIDELINES**

The Chair, SPD Faria and Trial Compliance Officer Di Giulio met with the elected District Attorneys on Monday, November 9, 2009 at the LDAA's November Board of Directors Meeting in New Orleans. There were few questions regarding the guidelines, however there were a number of unrelated questions regarding subpoenaing lab technicians, LPDB's district reserve policy, the policies regarding a change of circumstances in a defendant's ability to pay retained counsel and a subsequent declaration of indigence for the purpose of accessing the district's funds.

## **JUVENILE PROJECTS**

In November and early December, there were six juvenile site visits: the 9<sup>th</sup>, 22<sup>nd</sup>, 23<sup>rd</sup>, 36<sup>th</sup>, 40<sup>th</sup>, and 42<sup>th</sup> JDCs. On November 12<sup>th</sup>, Lynette Roberson, a recent graduate of LSU Law School, began working under contract as the Coordinator for JIDAN. The Legislative Task Force for Child Protection Cases met two times and voted in favor of a proposal which should result in the full implementation of the Parent Representation Program statewide in all defender offices in January 2010. State staff was in attendance at the following meetings and conferences: the MacArthur Foundation's Juvenile Indigent Defense Action Network in Washington, D.C. from November 8<sup>th</sup> through 10<sup>th</sup>; the School-to-Prison Pipeline Reform Coalition held a meeting in New Orleans on November 10<sup>th</sup>; NLADA met in Denver November 17<sup>th</sup> through 20<sup>th</sup>; the Children's Law Committee of the Louisiana State Bar Association held a teleconference on November 18<sup>th</sup>; and the Advocacy Center held a Home-Based Mental Health meeting on November 20<sup>th</sup>. In addition, the state staff hosted the Central Louisiana Juvenile Training on November 13<sup>th</sup> in Alexandria. State staff also addressed juvenile public defenders at the 2009 Criminal Litigation Seminar on November 21<sup>st</sup>.

## **FIELD MEETINGS AND SITE VISITS**

**Orleans:** Compliance Officer Di Giulio and the State Public Defender spent two days in New Orleans. On Friday, November 6, 2009 they met with the Chief Judge who expressed his concern that the Orleans Public Defender Office was representing too many clients and was exceeding ethical caseload and workload limits. They then went to the Orleans Public Defenders Office, where they met with leadership and staff attorneys.

**11<sup>th</sup> and 42<sup>nd</sup> Judicial Districts:** On November 2, 2009, Trial Compliance Officer Di Giulio, Director of Juvenile Defender Services Walker and the State Public Defender met with Steve Thomas and Brian McCrea to discuss CINC billing.

**15th Judicial District:** On October 30, 2009, the Compliance Officer and the State Public Defender, made a site visit to Lafayette Parish to meet with the District Defender staff regarding CINC billing.

## **TRAINING**

The Defender Training Institute has been scheduled for September 12-18, 2010, to be held in Baton Rouge. The Institute will provide client-centered skills training to new public defenders in the state of Louisiana. The training objectives are to improve the defenders' advocacy skills, expand the defenders' knowledge and understanding of legal principles, provide tools to strengthen the relationship between the client and the defender, to expand the defenders' understanding and value of storytelling and persuasion, and to encourage client-centered representation.

The database training in each of the districts is almost complete. The impact of the training can be measured by the increase in percentage of open cases which are carried through to completion in the database. In 2008, only 70% of opened cases were tracked to completion. Since the trainings were implemented in June 2009, this rate has risen to 91%.

The Preliminary Hearing trainings are continuing to be scheduled and provided by Training Director Kilborn and Compliance Officer Di Giulio. Upcoming locations through January include 9<sup>th</sup> (Rapides / January 14<sup>th</sup>) and 13<sup>th</sup> (Evangeline / January 28<sup>th</sup>).

On November 13<sup>th</sup>, Special Projects Advisor Hall and Juvenile Compliance Officer Boxberger organized and provided support for the juvenile defenders' training in Alexandria. The National Juvenile Defender Center provided exceptionally qualified presenters who discussed critical issues such as special education, mental health, and adolescent development. Attendance included juvenile defenders from 10 districts across the state. A fourth NJDC-supported juvenile training has been scheduled for January 8, 2010 in Houma.

Special Projects Advisor Hall also organized training held November 6<sup>th</sup> for the attorneys in the Orleans Public Defender's Office and the social workers in the OPD Defender Services Program (DSP). Two members from the Bronx Defenders presented on best practices for integrating social work services into public defense delivery. This was followed by a dialogue among the participants, facilitated by DSP staff, on the services that DSP provides (mitigation, outreach and alternative sentencing/treatment plans) and procedures for requesting and implementing those services.

A day-long training for capital defense attorneys, prosecutors, and victim assistance staff will be provided on December 11<sup>th</sup> in Baton Rouge. The Defense Initiated Victim Outreach training is being organized Training Director Kilborn and provided by the Council for Restorative Justice and Turning Point Partners. The purpose of the training is to discuss ways to effectively open the lines of communication between victim survivors and defense teams to provide information and assist in the healing process for victims.

The trial skills pilot project training is underway, with Part I being held on Saturday, December 12<sup>th</sup>. It is anticipated that approximately 30 defense lawyers and 12 investigators will attend. Part I will provide training on the initial client interview, bond hearings, and preliminary examinations. Part II is scheduled for April 10, 2010 and Part III will be scheduled for June or July 2010.

## **SPECIAL PROJECTS**

Special Projects Advisor Heather H. Hall continues to upload content on the new Louisiana Public Defender Board website. It has completed its migration to the test site and is close to completion for a full proofread by State Public Defender Faria and General Counsel Harris.

Ed McGowan, Esq. and Megan Crowe-Rothstein, LCSW, a lawyer-social worker team from the Bronx Defenders, visited the Plaquemines Public Defender's Office and Orleans Public Defenders on November 5-6, 2009. In both sites they discussed the holistic defense model in practice at the Bronx Defenders and provided an opportunity for lawyer and social worker staff to ask questions and discuss implementation issues in these two offices. Expenses related to this visit were covered by the Louisiana Justice Coalition and the Bronx Defenders. State Public Defender Faria, Training Director Kilborn and Compliance Officer Di Giulio followed up with the Bronx Defender staff via conference call on November 13, 2009.

LPDB plans to initiate a bi-weekly e-newsletter to all staff in the field to promote more efficient communication. This newsletter is set to begin every other Friday beginning January 1, 2010. The template has been designed, software purchased and the e-mail distribution list is almost complete. There are currently more than 650 addresses in the databases, including district defenders, assistant defenders, investigators, data technicians, support staff and all staff in the LPDB contract programs.

The Brennan Center for Justice at New York University School of Law released its draft "Statement of Principles" for membership among the Community Oriented Defender Network on November 25, 2009. These principles were drafted by the COD Advisory Group, which includes: Edwin Burnette, Senior Consultant, Inspired Vision; Lisa Dugaard, Deputy Director, Racial Disparity Program, Defender Association of Seattle; Joshua Dohan, Director, Youth Advocacy Project of the Committee for Public Counsel Services; Heather H. Hall, Special Projects Advisor, Louisiana Defender Board; Rick Jones, Executive Director, Neighborhood Defender Service of Harlem; William Leahy, Chief Counsel, Committee for Public Counsel Services; Robin Steinberg, Founding Director, Bronx Neighborhood Defenders; and John Stuart, Minnesota State Public Defender. LPDB joined the COD Network in January 2009.

Special Projects Advisor Hall served as faculty for two sessions at the NLADA Annual Conference in Denver, CO, from November 17-21st, 2009. These sessions were titled, "Justice Coalitions: How They Form and What They've Accomplished in Louisiana and Michigan" and "Collateral Consequences: What Every Client Should Know Before Pleading Guilty." These presentations were developed in concert with Laura Sager and Jim Neuhard from Michigan, and Rebekah Diller from the Brennan Center for Justice.

LPDB staff that traveled to Denver for the NLADA conference took advantage of the opportunity to do some preliminary work with Phyllis Subin (former State Defender for New Mexico and current strategic planning and leadership consultant) on our strategic planning session scheduled for late February 2010.

## **STAFF UPDATE**

We are now fully staffed. Sherri Young, will be joining the staff on December 7, 2009 as a paralegal, working with General Counsel Harris.

Special Projects Advisor Hall has indicated she wishes to convert to a part-time status in March of 2010. She would become what is called a “WAE” which status she can maintain for two years. In order to hire the Capital Case Coordinator, we must give up one of our “T.O.” to fill the position. With Special Projects Advisor Hall converting to WAE we can use that staff slot to hire the Capital Case Coordinator.

## **GENERAL**

Judge Milton Moore, Chair of the Right to Counsel Committee and the State Public Defender addressed the Louisiana State Bar Association’s Board of Governors, on November 7, 2009, regarding the LPDB Capital Guidelines and other committee work on indigent defense issues. The State Public Defender discussed the findings of the Calcasieu case counting and the caseload overload problems facing that district as well as other districts throughout the state. The comments were made in the presence of Disciplinary Counsel who was also in attendance. The Board of Governors advised the Committee to continue working with district attorneys and thanked the Committee for its work. Judge Moore noted that the Committee would benefit by having district attorneys on it. President Boyle committed to working on district attorney appointments to the Committee and stated she would place indigent defense on the agenda of the next Board of Governors’ meeting.

The State Public Defender served as faculty for two sessions at the NLADA Annual Conference in Denver, CO, from November 17-21, 2009. The two sessions were entitled “Leadership Challenge for Defenders: Part 2 – Applying Practical Leadership Practices in The Workplace” and “ABA Public Defense Guidelines on Excessive Workloads: What Do They Mean for My Office?” These presentations were developed in concert with Kentucky Public Advocate, Ed Monahan and Professor Norman Lefstein, Michigan State Appellate Defender Jim Neuhard and Miami Dade Public Defender Carlos Martinez.

Board Chair Mr. Neuner, Trial Compliance Officer Di Giulio, General Counsel Harris and the State Public Defender are scheduled to meet with Uma Subramanian, from the Attorney General’s Office, along with several other stakeholders regarding *Anderson v. Jindal*, the Calcasieu Parish lawsuit. The meeting has been rescheduled several times and is currently set for December 7, 2009.

The meeting with the district judges and other interested members of the criminal justice system in Lake Charles is scheduled for December 2, 2009.

Mr. Neuner and the State Public Defender have been invited to attend the U. S. Department of Justice’s Indigent Defense Symposium scheduled to be held in Washington, D.C. February 18-19, 2010.

## **ACCOLADES**

The Louisiana Association of Criminal Defense Lawyers has announced that Board Member, Mr. Samuel S. Dalton is to receive the Chief Justice Pascal F. Calogero, Jr. Lifetime Achievement Award on December 4, 2009 at their Annual Tate Awards dinner, given in conjunction with the Louisiana Public Defenders Association Awards dinner. Congratulations, Mr. Sam.